


Case Clip(s) Detailed Report
Tuesday, November 10, 2009, 5:56:43 PM

Fair Isaac v Experian et al

 **Wiermanski, Chet D. (Vol. 01) - 06/05/2008**

1 CLIP (RUNNING 00:06:04.299)

 And did you take handwritten notes in ...

WIERMANSKI2 **17 SEGMENTS (RUNNING 00:06:04.299)**



1. PAGE 4:06 TO 4:10 (RUNNING 00:00:16.466)

06 Q. Mr. Wiermanski, do you understand that
07 you are here to testify today not just as a
08 designated representative of the company on certain
09 topics, but also in your individual capacity?
10 A. Yes.

2. PAGE 7:02 TO 7:20 (RUNNING 00:01:30.900)

02 Q. And since you've been at TransUnion, can
03 you tell me what positions you've held and the time
04 period in which you held those positions?
05 A. I'll give you approximate dates.
06 Q. Sure.
07 A. My initial position at TransUnion was as
08 a product research manager and I was that probably
09 for two years, so up until 1991 -- excuse me, 1989.
10 Was promoted to a senior product research manager
11 in 1991 till -- excuse me, 1989 -- I'll get the
12 dates right. I'm sorry. To 1990. 1990 I was
13 promoted to director of acquisition and risk
14 management services. In 1992 I was promoted to
15 vice-president of acquisition and risk management
16 services and then was promoted to group
17 vice-president approximately 18 months ago. So
18 that would put it about --
19 Q. 18 months ago?
20 A. Let's say January of 2007.

3. PAGE 21:05 TO 21:16 (RUNNING 00:00:51.433)

05 Q. Mr. Wiermanski, I turn your attention now
06 to Plaintiff's Exhibit 30, which is the
07 Intellectual Property Agreement among the bureaus
08 and VantageScore.
09 A. Okay.
10 Q. Before today, have you seen this
11 document?
12 A. Yes.
13 Q. Is this a document that you reviewed as
14 part of your work on Project Trident and
15 VantageScore in early 2006?
16 A. Yes.

4. PAGE 28:10 TO 28:24 (RUNNING 00:00:59.433)

10 Q. If you would, please, turn to the next
11 page, internal page Number 2, Bates labeled
12 EXP 0004657. I'd like you to turn -- turn your
13 attention to the second item in bold near the top
14 of the page labeled "Company Owned Existing
15 Intellectual Property." Do you see that?
16 A. Yes.
17 Q. Could you just read that, please? Read
18 it to yourself if you'd like.
19 A. Yes.
20 Q. You've read it?

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21 A. Yes.
22 Q. Is this a definition of the property that
23 VantageScore owns as a result of this Intellectual
24 Property Agreement?

5. PAGE 29:03 TO 29:03 (RUNNING 00:00:01.567)

03 THE WITNESS: I don't know.

6. PAGE 29:05 TO 29:18 (RUNNING 00:01:01.600)

05 Q. So let's go through some of these items
06 here. This provision defining company owned
07 existing intellectual property says that it means
08 the MOU inventions, the MOU developed information
09 and MOU patents, including the model. Do you see
10 that?
11 A. Yes.
12 Q. Now, if you turn to the next page after
13 this, please, internal page Number 3, do you see
14 there where model is defined just below the center
15 of the page?
16 A. Yes.
17 Q. And the model includes the Model Scale,
18 does it not?

7. PAGE 29:21 TO 29:23 (RUNNING 00:00:06.100)

21 THE WITNESS: You're asking me that --
22 does it say that Model Scale is listed, yes. It's
23 there.

8. PAGE 30:02 TO 30:03 (RUNNING 00:00:06.700)

02 Q. The model that came out of Project
03 Trident is now owned by VantageScore, is it not?

9. PAGE 30:07 TO 30:07 (RUNNING 00:00:01.067)

07 THE WITNESS: Yes.

10. PAGE 30:09 TO 30:10 (RUNNING 00:00:06.100)

09 Q. And the model that VantageScore owns
10 includes the Model Scale, does it not?

11. PAGE 30:12 TO 30:12 (RUNNING 00:00:01.000)

12 THE WITNESS: Yes.

12. PAGE 30:14 TO 30:15 (RUNNING 00:00:07.066)

14 Q. And the Model Scale means the scaling
15 parameters that are used in the model, does it not?

13. PAGE 30:17 TO 30:18 (RUNNING 00:00:03.366)

17 THE WITNESS: I don't know. I don't know
18 if it includes the parameters.

14. PAGE 30:20 TO 31:08 (RUNNING 00:00:38.067)

20 Q. Well, look a little bit further down this
21 page, internal page Number 3 on Plaintiff's Exhibit
22 Number 30. Do you see where Model Scale is defined
23 there?
24 A. Yes.
00031:01 Q. And do you see that Model Scale is
02 defined as meaning "the scaling parameters (e.g.,
03 501 through 990) that are used in the model." Do
04 you see that?
05 A. Yes.

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06 Q. Is it your understanding that
 07 VantageScore, the company, owns the model and that
 08 that model includes the modeling scale?

15. PAGE 31:12 TO 31:12 (RUNNING 00:00:01.567)

12 THE WITNESS: Yes.

16. PAGE 31:14 TO 31:15 (RUNNING 00:00:10.567)


14 Q. Why would it be important to define what
 15 property the VantageScore company owns?

17. PAGE 31:19 TO 31:19 (RUNNING 00:00:01.300)

19 THE WITNESS: I don't know why.

 **Wiermanski, Chet D. (Vol. 01) - 06/05/2008**

1 CLIP (RUNNING 00:02:15.533)

 Good morning. I'm Randy Tietjen, I ...

WIERMANSKI1

2 SEGMENTS (RUNNING 00:02:15.533)



1. PAGE 5:12 TO 5:20 (RUNNING 00:00:23.333)

12 Q. Good morning. I'm Randy Tietjen, I
 13 represent the Plaintiffs, Fair Isaac Corporation
 14 and MyFICO Consumer Services, Inc. Would you state
 15 your name, please?
 16 A. Chet Wiermanski.
 17 Q. Where are you employed, Mr. Wiermanski?
 18 A. TransUnion.
 19 Q. And what's your title?
 20 A. Group vice-president.

2. PAGE 7:16 TO 8:22 (RUNNING 00:01:52.200)

16 Q. Thank you. Mr. Wiermanski, I'm handing
 17 you what was previously marked in an earlier
 18 deposition as Plaintiff's Exhibit 93. I'd like you
 19 to take a look at this and just tell me if you've
 20 seen it before?
 21 A. Yes, I've seen it.
 22 Q. You understand, Mr. Wiermanski, that
 23 there's a procedure under the rules of the court
 24 that allow a company or an organization to
 00008:01 designate a witness on certain topics. It's called
 02 a 30(b)(6) deposition ordinarily. Are you familiar
 03 with that?
 04 A. Yes. It's what I've been told that I'm
 05 here for.
 06 Q. You're a designated witness for the
 07 company that employs you, correct?
 08 A. Yes.
 09 Q. And you are designated, are you not, to
 10 testify today on the topics in this deposition
 11 Notice that are listed as 2, 12, 13, 15, 22, 27,
 12 29, 30, 33, 35, 38, 40, 41 and 42? And if you can
 13 remember all those you have a much better memory
 14 than I do.
 15 A. I don't remember them all.
 16 MR. BOYLE: I could just point out that
 17 this -- the original Notice only goes up to 41.


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18 MR. TIETJEN: I'm sorry.
 19 MR. BOYLE: But otherwise we'll stipulate
 20 that we've designated Mr. Wiermanski for those
 21 topics.
 22 MR. TIETJEN: Thank you.

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1 CLIP (RUNNING 00:40:17.300)

 And in fact, from a technical standpoint, ...

WIERMANSKI3 **97 SEGMENTS (RUNNING 00:40:17.300)**



1. PAGE 93:06 TO 94:09 (RUNNING 00:01:14.367)

06 Q. Good morning, Mr. Wiermanski. As I
 07 stated on the record, I'm Chris Larus. I'm one of
 08 the lawyers representing Fair Isaac Corporation and
 09 MyFICO Consumer Services, Inc. in this matter. I
 10 know that you were deposed yesterday and are
 11 generally familiar with the procedures today. Do
 12 you understand that your testimony is still under
 13 oath?
 14 A. Yes.
 15 (Document marked as Plaintiffs' Exhibit
 16 Number 199 for identification.)
 17 BY MR. LARUS:
 18 Q. I'm going to hand you a document which
 19 has been labeled as Plaintiff's Exhibit 199. Do
 20 you have that document in front of you, sir?
 21 A. Yes.
 22 Q. This is a document that's titled
 23 "Plaintiff Fair Isaac's First Supplemental Notice
 24 of Deposition of Defendant TransUnion, LLC" and
 00094:01 then goes on in its title. Do you see that?
 02 A. Yes.
 03 Q. Have you seen this document before, sir?
 04 A. Yes.
 05 Q. And do you understand that you've been
 06 designated by TransUnion, LLC to provide testimony
 07 on behalf of that entity with respect to some of
 08 the topics identified on Exhibit 199?
 09 A. Yes.

2. PAGE 94:12 TO 94:17 (RUNNING 00:00:17.066)

12 Is it your understanding that with
 13 respect to the topics identified on this Notice,
 14 you have been designated to provide testimony with
 15 respect to topics 42 and 51?
 16 A. Yes, those are -- I presume.
 17 MR. BOYLE: We'll stipulate to that.

3. PAGE 95:14 TO 96:02 (RUNNING 00:00:26.367)

14 Q. I'll hand this to you. You can pass it
 15 around. Mr. Wiermanski, I'm also going to hand you
 16 document which has been labeled as Plaintiff's
 17 Exhibit Number 200. Do you have that document in
 18 front of you?
 19 A. Yes.
 20 Q. And this is a document that bears the
 21 title "Plaintiff Fair Isaac's Second Supplemental

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22 Notice of Deposition of Defendant TransUnion, LLC"
23 and then goes on in its title.
24 A. Yes, I see that.
00096:01 Q. Have you reviewed this document before?
02 A. Yes.

4. PAGE 96:06 TO 96:11 (RUNNING 00:00:16.400)

06 I understand that you've been designated
07 to provide testimony on behalf of TransUnion, LLC
08 with respect to topics 81, 82, 84, 87, 91 and 95 of
09 this Notice, is that correct?
10 A. Is that correct, Dao?
11 MR. BOYLE: We'll stipulate to that.

5. PAGE 98:02 TO 98:06 (RUNNING 00:00:19.234)

02 Q. Okay. As you sought to prepare for your
03 testimony today on the topics within Exhibit 199
04 for which you have been designated, did you come to
05 any conclusion as to whether you had firsthand
06 knowledge of any of those topics?

6. PAGE 98:08 TO 98:15 (RUNNING 00:00:22.300)

08 THE WITNESS: Yes.
09 BY MR. LARUS:
10 Q. And yes, you do?
11 A. Yes, I do.
12 Q. Was -- is there anyone within TransUnion
13 whom you believe is more knowledgeable with respect
14 to the subject matters identified in topics 42 and
15 51 than you are?

7. PAGE 98:17 TO 99:09 (RUNNING 00:00:54.500)

17 THE WITNESS: Can you tell me -- let me
18 read which ones they are?
19 BY MR. LARUS:
20 Q. Absolutely. Why don't we kind of break
21 them down by topic and let's start with topic
22 Number 42 which begins on page 4 of Exhibit 199.
23 And please take whatever time you need to review
24 that topic in its entirety and let me know when
00099:01 you've done so.
02 A. I can speak on behalf of TransUnion for
03 42.
04 Q. Okay. And my question was slightly
05 different. I was wondering if based upon your
06 review of that topic if there was anyone within
07 TransUnion whom you believe to be more
08 knowledgeable than you are about that -- the topics
09 identified within topic Number 42?

8. PAGE 99:11 TO 99:21 (RUNNING 00:00:40.333)

11 THE WITNESS: No.
12 BY MR. LARUS:
13 Q. Now, let me direct your attention to
14 topic Number 51, which is the other topic within
15 this Notice for which you've been designated and
16 that's found on page 8 of the document.
17 A. I'm knowledgeable on 51.
18 Q. Is there anyone within TransUnion whom
19 you understand to be more knowledgeable than you
20 are with respect to the topics identified within
21 topic 51?

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9. PAGE 99:23 TO 99:23 (RUNNING 00:00:01.034)

23 THE WITNESS: No.

10. PAGE 100:17 TO 101:03 (RUNNING 00:00:52.500)

17 Q. Let me direct your attention first to
 18 topic 81 within Exhibit 200. It starts on page 4
 19 and continues on to page 5. Please take whatever
 20 time you need to review that topic and let me know
 21 when you've done so.

22 A. I can answer to these questions.

23 Q. Okay. Is there anyone within TransUnion
 24 whom you understand to be more knowledgeable with
 00101:01 respect to the topics identified within topic
 02 Number 81 than you are?

03 A. No.

11. PAGE 101:07 TO 101:16 (RUNNING 00:00:26.300)

07 Q. Okay. Let me direct your attention to
 08 topic Number 82. Please take whatever time you
 09 need to review that and let me know when you've
 10 done so.

11 A. I reviewed it. And I can answer any
 12 questions regarding it.

13 Q. Okay. And is there anyone within
 14 TransUnion whom you believe is more knowledgeable
 15 with respect to the topics contained within --
 16 within topic 82 than you are?

12. PAGE 101:18 TO 102:01 (RUNNING 00:00:21.500)

18 THE WITNESS: No.

19 BY MR. LARUS:

20 Q. Let's go to 84 which is the next topic on
 21 which you've been designated. Please take whatever
 22 time you need to review that and I'll ask you the
 23 same question which is whether there's anybody
 24 within TransUnion whom you believe is more

00102:01 knowledgeable about those topics than you are?

13. PAGE 102:03 TO 102:09 (RUNNING 00:00:13.333)

03 THE WITNESS: I can answer the questions
 04 and I don't believe there's anybody at TransUnion
 05 more knowledgeable.

06 BY MR. LARUS:

07 Q. Okay. Great. Let's go on to topic
 08 Number 87, the next topic on this Notice for which
 09 you've been designated.

14. PAGE 102:12 TO 102:18 (RUNNING 00:00:15.433)

12 Q. Please let me know when you've had a
 13 chance to review that.

14 A. I've reviewed it.

15 Q. Okay. Is there anyone within TransUnion
 16 whom you believe is more knowledgeable with respect
 17 to the subjects identified within topic Number 87
 18 than you are?

15. PAGE 102:20 TO 103:08 (RUNNING 00:00:43.633)

20 THE WITNESS: No.

21 BY MR. LARUS:

22 Q. 91 is the next topic for which you've
 23 been designated, is that correct?

24 A. I've reviewed 91.

00103:01 Q. This is the next topic for which you've

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02 been designated to provide testimony?
03 MR. BOYLE: We'll stipulate to that.
04 BY MR. LARUS:
05 Q. Is there anyone, Mr. Wiermanski, whom you
06 believe is more knowledgeable within TransUnion
07 with respect to the matters contained within
08 topic 91 than you are?

16. PAGE 103:10 TO 103:13 (RUNNING 00:00:06.433)

10 THE WITNESS: No.
11 BY MR. LARUS:
12 Q. Okay. We're almost done. 95 is the last
13 topic for which you've been designated.

17. PAGE 103:19 TO 103:24 (RUNNING 00:00:11.534)

19 Q. I didn't mean to imply that you're the
20 only one who has been designated for this topic but
21 you have been designated to provide testimony with
22 respect to topic 95?
23 MR. BOYLE: We'll stipulate to that.
24 THE WITNESS: Yes.

18. PAGE 104:02 TO 104:04 (RUNNING 00:00:07.767)

02 Q. Is there anyone within TransUnion whom
03 you believe is more knowledgeable with respect to
04 the subject matter of 95 than you are?

19. PAGE 104:06 TO 104:06 (RUNNING 00:00:01.334)

06 THE WITNESS: No.

20. PAGE 105:09 TO 105:12 (RUNNING 00:00:14.967)

09 Sitting here today, are you aware of any
10 instance in which Fair Isaac has used the numeric
11 range 300 to 850 in connection with credit scores
12 in any way?

21. PAGE 105:14 TO 105:15 (RUNNING 00:00:05.966)

14 THE WITNESS: I've seen that on slide
15 presentations to customers.

22. PAGE 107:02 TO 107:12 (RUNNING 00:00:46.067)

02 Q. Sitting here today, do you know when
03 TransUnion first learned of the slide presentations
04 generated by Fair Isaac that made use of the
05 numbers 300 to 850 in any way?
06 A. I don't recall when exactly. It would be
07 in the -- it would be at the beginning -- in the
08 mid 1990's.
09 Q. Okay. Sitting here today, do you know
10 when TransUnion first learned of the Fair Isaac
11 brochures that made use of the numbers 300 to 850
12 in any way?

23. PAGE 107:14 TO 107:15 (RUNNING 00:00:03.200)

14 THE WITNESS: It would be the same time
15 frame.

24. PAGE 128:17 TO 129:03 (RUNNING 00:00:37.167)

17 Q. Okay. So your recollection of having
18 seen any documents that contain the numbers 300 to
19 850 in connection with credit scores generated
20 using Fair Isaac models is limited only to

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21 recollection of such documents generated by Fair
22 Isaac, is that correct?
23 A. No.
24 Q. Okay. What other documents are you aware
00129:01 of that use the term -- or strike that -- use the
02 numbers 300 to 850 in connection with credit scores
03 generated using Fair Isaac models?

25. PAGE 129:05 TO 129:18 (RUNNING 00:01:01.000)

05 THE WITNESS: These would be slide
06 presentations that TransUnion prepared with the
07 assistance of Fair Isaac that we had in our
08 possession that TransUnion prepared using the
09 approved let's say text or terminology from Fair
10 Isaac that would then be distributed to TransUnion
11 sales associates to promote Fair Isaac score.
12 BY MR. LARUS:
13 Q. Okay. At any time have you seen any
14 slide presentations or other materials which use
15 the term or numbers 300 to 850 in connection with
16 credit scores generated using Fair Isaac models
17 that were not generated at least in part by
18 TransUnion?

26. PAGE 129:20 TO 130:04 (RUNNING 00:00:23.133)

20 THE WITNESS: No.
21 BY MR. LARUS:
22 Q. Okay. So when you testified having a
23 recollection of having seen some slide
24 presentations and brochures that make use of the
00130:01 numbers 300 to 850 in connection with credit scores
02 generated using Fair Isaac models, you're talking
03 about materials that were jointly prepared by
04 TransUnion and Fair Isaac?

27. PAGE 130:06 TO 130:11 (RUNNING 00:00:14.633)

06 THE WITNESS: Yes.
07 BY MR. LARUS:
08 Q. Okay. And to your recollection, these
09 were materials that were jointly prepared by
10 TransUnion and Fair Isaac at some point in the mid
11 to late 1990's?

28. PAGE 130:13 TO 130:13 (RUNNING 00:00:00.800)

13 THE WITNESS: Yes.

29. PAGE 130:20 TO 130:21 (RUNNING 00:00:05.933)

20 Q. Who within TransUnion was involved in
21 preparing those materials?

30. PAGE 130:23 TO 130:23 (RUNNING 00:00:01.733)

23 THE WITNESS: Which -- what materials?

31. PAGE 131:02 TO 131:04 (RUNNING 00:00:07.600)

02 Q. The materials to which you just testified
03 having -- you're aware of that were jointly created
04 by Fair Isaac and TransUnion?

32. PAGE 131:06 TO 131:10 (RUNNING 00:00:15.867)

06 THE WITNESS: Various members of my
07 business unit or team. I don't recall the specific
08 names of the individuals. There are probably five
09 or six different people that may have been involved

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10 in that.

33. PAGE 137:05 TO 137:08 (RUNNING 00:00:11.466)

05 Q. Mr. Wiermanski, do you have any knowledge
 06 at all about what use Fair Isaac Corporation has
 07 made of the term 300 to 850 in advertising and
 08 promotional materials?

34. PAGE 137:10 TO 137:18 (RUNNING 00:00:18.067)

10 THE WITNESS: Yes.
 11 BY MR. LARUS:
 12 Q. Okay. What information do you have in
 13 that regard?
 14 A. They claim that the models that the Fair
 15 Isaac score uses a range of 300 to 850.
 16 Q. On what do you base that understanding?
 17 A. I base that understanding on what they
 18 put in the press.

35. PAGE 138:01 TO 138:16 (RUNNING 00:01:14.900)

00138:01 Q. The press reporting on topics regarding
 02 financial topics?
 03 A. I base it on what Fair Isaac has asked us
 04 to put in our presentation material, in the
 05 brochures and what they -- what I've read in press
 06 releases, either provided by Fair Isaac or quotes
 07 by -- you know, I'll use the word either industry
 08 publications or general publications.
 09 Q. Okay. One of the things that you just
 10 identified as a basis for your statement is what
 11 Fair Isaac has asked us, which I assume to mean
 12 TransUnion, to put in presentation materials?
 13 A. Yes.
 14 Q. What has Fair Isaac requested that
 15 TransUnion put in presentation materials with
 16 respect to the term 300 to 850?

36. PAGE 138:19 TO 138:20 (RUNNING 00:00:08.733)

19 THE WITNESS: The materials that I've --
 20 that I saw from the mid '90's said 300 to 850.

37. PAGE 139:10 TO 139:17 (RUNNING 00:00:36.200)

10 Q. How do you know that references to 300 to
 11 850 were included within those materials at the
 12 request of Fair Isaac?
 13 A. We worked closely with Fair Isaac to make
 14 sure that we properly represented their product and
 15 I don't believe that members of my team would just
 16 put any score range in. That would come from Fair
 17 Isaac.

38. PAGE 140:16 TO 141:06 (RUNNING 00:00:52.833)

16 Q. And it's your understanding that if it
 17 showed up in slide presentations that were jointly
 18 created by Fair Isaac and TransUnion, the
 19 references to 300 to 850 were at the request of
 20 Fair Isaac, is that correct?
 21 A. Yes.
 22 Q. And these were materials dating back to
 23 the mid to late 1990's?
 24 A. Uh-huh.
 00141:01 Q. If you could answer yes or no?
 02 A. Yes. I'm sorry.

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03 Q. That's okay. Thank you. Are you aware
04 of any time when Fair Isaac changed its practices
05 with respect to requesting that the term 300 to 850
06 be included in marketing or promotional materials?

39. PAGE 141:08 TO 141:13 (RUNNING 00:00:20.200)

08 THE WITNESS: No, I'm not aware of any
09 changes, other than any change that might have been
10 in something with NextGen because I don't believe
11 that NextGen uses that same range. So I think
12 there might be materials where it shows a different
13 range, but that's conjecture on my part.

40. PAGE 143:07 TO 143:15 (RUNNING 00:00:45.000)

07 Q. When did TransUnion first become aware
08 that Fair Isaac claimed trademark rights in the
09 term 300 to 850?
10 A. I guess that would be April of 2006 when
11 they sent a letter to us to that effect.
12 Q. Prior to that time, did TransUnion have
13 any knowledge whatsoever that Fair Isaac claimed
14 trademark rights to the term 300 to 850?
15 A. We saw that in their materials, yes.

41. PAGE 144:04 TO 144:12 (RUNNING 00:00:28.567)

04 Q. Aside from any conversations you may have
05 had with counsel, which I'm not going to ask you
06 about, have you ever inquired of anybody when
07 TransUnion first became aware of materials in which
08 Fair Isaac indicated they claimed trademark rights
09 to the term 300 to 850?
10 A. Yes.
11 Q. And of whom did you inquire?
12 A. Gary Friedlander.

42. PAGE 144:15 TO 144:22 (RUNNING 00:00:16.433)

15 Q. And when did you make this inquiry of
16 Mr. Friedlander?
17 A. I don't recall.
18 Q. Do you recall the year?
19 A. No.
20 Q. Do you recall if it was before or after
21 the lawsuit was filed?
22 A. Before.

43. PAGE 145:03 TO 145:10 (RUNNING 00:00:22.600)

03 Q. Now -- and who is Mr. Friedlander?
04 A. He's an attorney at TransUnion.
05 Q. Obviously before you made this inquiry of
06 Mr. Friedlander, you personally must have seen some
07 materials or had some information that led you to
08 believe that Fair Isaac was actually claiming
09 trademark rights in the numbers 300 to 850,
10 correct?

44. PAGE 145:12 TO 145:12 (RUNNING 00:00:00.867)

12 THE WITNESS: Yes.

45. PAGE 146:18 TO 147:17 (RUNNING 00:01:01.834)

18 Q. Sure. What was it about the materials
19 that you had seen that caused you to contact
20 Mr. Friedlander?
21 A. It was a trademark note on the score

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22 range.
 23 Q. And when you say a trademark note, what
 24 do you mean?
 00147:01 A. A little TM.
 02 Q. A TM, okay. Now, this was before the
 03 lawsuit was filed, correct?
 04 A. Yes.
 05 Q. And this was in materials that were
 06 jointly created by Fair Isaac and TransUnion,
 07 correct?
 08 A. Yes.
 09 Q. And had been finalized when you made this
 10 observation that caused you to contact
 11 Mr. Friedlander, correct?
 12 A. Yes.
 13 Q. In what year did this take place?
 14 A. I don't remember what year. It was after
 15 the time period we talked about the first
 16 generation of materials were prepared, so it was
 17 after the mid '90's.

46. PAGE 147:18 TO 148:12 (RUNNING 00:01:27.233)

18 Q. All right. And I'm going to -- I guess
 19 throw out some events that may demark certain
 20 points in time to help refresh your recollection.
 21 Was it before VantageScore had been introduced?
 22 A. Yes.
 23 Q. Do you recall the title of the materials
 24 that led you to contact Mr. Friedlander?
 00148:01 A. No.
 02 Q. Do you recall to whom the materials were
 03 directed?
 04 A. No. Other than lenders.
 05 Q. Do you recall the form of the materials?
 06 A. No.
 07 Q. Was it a slide show?
 08 A. I don't recall.
 09 Q. Do you recall who the president of the
 10 United States was at the time that this happened?
 11 A. It was either Ronald Reagan -- no, George
 12 Bush. I don't remember, no.

47. PAGE 149:18 TO 149:23 (RUNNING 00:00:23.934)

18 Q. After having your communication with
 19 Mr. Friedlander, were you -- are you aware of any
 20 other materials generated jointly by TransUnion and
 21 Fair Isaac that made use of the term TM in
 22 connection with the term 300 to 850?
 23 A. No, I don't recall any.

48. PAGE 150:05 TO 150:18 (RUNNING 00:01:05.800)

05 Q. When did TransUnion first become aware
 06 that Fair Isaac had filed an application to
 07 register the term 300 to 850 with the United States
 08 Patent and Trademark Office?
 09 A. That would be in a correspondence that I
 10 saw with -- on April of 2006 to Jason Wright saying
 11 that we were infringing on their trademark.
 12 Q. So it's your understanding that
 13 TransUnion's receipt of that letter was the first
 14 instance in which it learned that Fair Isaac had
 15 filed an application to register the term 300 to
 16 850 with the United States Patent and Trademark
 17 Office, is that right?
 18 A. That's my understanding, yes.

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49. PAGE 157:14 TO 158:04 (RUNNING 00:01:06.000)

14 Q. Would you please describe for the record
15 the process by which the credit scoring range for
16 the VantageScore credit score was decided?

17 A. We received initial direction from the
18 three -- I'll use the term loosely -- three
19 executive members, the three people who made the
20 decision and at various conversations about the
21 importance to have the score range reflect some
22 type of academic score range. So we looked at
23 somewhere in the neighborhood of 900 or above as
24 being the high end of the ceiling of the score
00158:01 range, down to somewhere 500 to 600 as the
02 potential end of the score range and were given
03 just general direction as to kind of how we should
04 head.

50. PAGE 159:07 TO 159:09 (RUNNING 00:00:09.400)

07 Q. Are there certain numerical ranges within
08 which you could not have scaled the VantageScore
09 credit score?

51. PAGE 159:11 TO 159:15 (RUNNING 00:00:06.233)

11 THE WITNESS: Yes.
12 BY MR. LARUS:

13 Q. And what numerical ranges are those?

14 A. Ranges that involve four digits or two
15 digits, with scores of four digits or two digits.

52. PAGE 159:22 TO 159:24 (RUNNING 00:00:12.800)

22 Q. Now, why is it that you could not have
23 scaled the VantageScore credit score to a numerical
24 range that consisted of four digits?

53. PAGE 160:02 TO 160:04 (RUNNING 00:00:04.500)

02 THE WITNESS: We didn't believe that
03 customers would be willing to accept a four-digit
04 score.

54. PAGE 162:05 TO 162:07 (RUNNING 00:00:05.633)

05 Q. And in fact, from a technical standpoint,
06 you could have done it to any number of digits you
07 wanted, correct?

55. PAGE 162:09 TO 162:09 (RUNNING 00:00:01.034)

09 THE WITNESS: Yes.

56. PAGE 163:02 TO 163:12 (RUNNING 00:00:48.100)

02 Q. Sure. Was it your testimony that you did
03 not believe it was feasible to scale the
04 VantageScore credit score using a four-digit range
05 because of market acceptance reasons?

06 A. Yes.

07 Q. Okay. And on what do you base that
08 belief?

09 A. Most of the application -- excuse me --
10 account management platforms that are provided by a
11 variety of entities for lenders to use only a
12 three-digit field to take a credit bureau score.

57. PAGE 165:13 TO 165:24 (RUNNING 00:00:39.300)

13 Q. Let me try to break it down. You

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14 testified on the record that you've had some
15 dialogue at some point in time with customers which
16 led you to the belief that a four-digit scoring
17 range would not meet with credit -- with customer
18 acceptance, correct?

19 A. Yes.

20 Q. And you said that that dialogue with
21 which -- in which you were involved took place
22 between 1987 and 1993 in connection with the Delphi
23 score, correct?

24 A. Yes.

58. PAGE 168:02 TO 168:23 (RUNNING 00:01:34.933)

02 Q. You also testified that you did not
03 believe that a two-digit credit score was feasible
04 because it would not meet market acceptance,
05 correct?

06 A. Yes.

07 Q. And on what do you base that statement?

08 A. Didn't -- it wouldn't give lenders enough
09 definition as to the -- how a consumer will
10 perform. It's not granular enough to allow them to
11 execute the variety of different lending strategies
12 that they have by using a two-digit score. It
13 would be too restrictive.

14 Q. And how did you come to the belief that a
15 two-digit score was not granular enough to meet
16 market acceptance?

17 A. By working with different lenders who
18 have a variety of different strategies where they
19 use three-digit scores to detail what the strategy
20 is.

21 Q. How many numbers within a range are
22 necessary in order to provide the granularity that
23 would allow for market acceptance?

59. PAGE 169:03 TO 169:11 (RUNNING 00:00:16.667)

03 Q. Three?

04 A. Three digits.

05 Q. Okay. And my question was slightly
06 different.

07 A. Okay.

08 Q. How many numbers within a range are
09 necessary to provide the granularity that you
10 believe is necessary to allow for market acceptance
11 of a credit score?

60. PAGE 169:14 TO 169:14 (RUNNING 00:00:01.933)

14 THE WITNESS: 999.

61. PAGE 190:10 TO 190:20 (RUNNING 00:00:27.334)

10 Q. Do you recall a discussion at this
11 meeting about whether the adoption of a particular
12 scale for what would become the VantageScore credit
13 score would be a topic of discussion with senior
14 management?

15 A. Yes.

16 Q. What do you recall of that discussion?

17 A. Just that there were some strong feelings
18 for an academic scale, that the team was really
19 unclear what that meant, and it would be brought up
20 at the next meeting with senior management.

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62. PAGE 199:11 TO 200:04 (RUNNING 00:01:58.700)

11 Q. Mr. Wiermanski, I'm going to hand you a
12 document which was previously labeled as
13 Plaintiff's Exhibit 44 which is a multi-page
14 document bearing the Bates numbers
15 MOW-FICO-00000118 through 137. Please take
16 whatever time you need to review that document in
17 order to tell me whether you recognize that
18 document?

19 A. Yes, I'm familiar with it.

20 Q. Okay. And would you describe for the
21 record what this document is?

22 A. This document reflects the status of
23 Project Trident as of October 18th, 2005 and was
24 presented to the team involved in forming
00200:01 VantageScore, the VantageScore product.

02 Q. And Project Trident was the term that was
03 used for the project that resulted in VantageScore?

04 A. Yes.

63. PAGE 205:17 TO 205:18 (RUNNING 00:00:07.533)

17 Q. Have you ever used the term industry
18 standard to refer to the FICO score?

64. PAGE 205:20 TO 205:23 (RUNNING 00:00:03.833)

20 THE WITNESS: Me, ever?

21 BY MR. LARUS:

22 Q. Yes, sir.

23 A. Yes.

65. PAGE 206:23 TO 207:15 (RUNNING 00:00:48.533)

23 Q. Directing your attention back to
24 Exhibit 44, let me direct your attention to the
00207:01 bottom of page 10 of that document which has the
02 Bates number ending in the three digits 127. Do
03 you see that?

04 A. Yes.

05 Q. Do you recall there being a
06 recommendation made at the meeting in which this
07 presentation was made regarding the adoption of a
08 scale for what would become the VantageScore of
09 1 to 100?

10 A. Yes.

11 Q. Who made that recommendation?

12 A. The development team for VantageScore on
13 Project Trident.

14 Q. The entire team?

15 A. That's my understanding, yes.

66. PAGE 208:16 TO 208:21 (RUNNING 00:00:13.233)

16 this to be a memory test. Let me direct your
17 attention to Exhibit -- or the next page of the
18 exhibit. The first line of text underneath that
19 heading states, "Results of consumer Gallup poll."
20 Do you see that?

21 A. Yes.

67. PAGE 214:24 TO 215:02 (RUNNING 00:00:15.500)

24 Q. Sitting here today, are you aware of any
00215:01 other survey that was ever conducted with respect
02 to any potential scale for VantageScore?

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68. PAGE 215:04 TO 215:09 (RUNNING 00:00:16.400)

04 THE WITNESS: No.
 05 BY MR. LARUS:
 06 Q. Sitting here today, are you aware of any
 07 other study of any kind that has ever been
 08 conducted regarding perceptions of any actual or
 09 potential scale for VantageScore?

69. PAGE 215:11 TO 215:11 (RUNNING 00:00:01.067)

11 THE WITNESS: No.

70. PAGE 216:18 TO 216:23 (RUNNING 00:00:13.367)

18 Q. Okay. Was there a probabilistic score
 19 range considered for VantageScore?
 20 A. Yes.
 21 Q. And what was the numeric range for that
 22 potential score range option?
 23 A. 001 to 100.

71. PAGE 218:09 TO 218:15 (RUNNING 00:00:22.267)

09 Q. Mr. Wiermanski, the court reporter's
 10 handed you a document which has been labeled as
 11 Plaintiff's Exhibit 204 which is a multi-page
 12 document bearing the Bates numbers TU-FI 0424501
 13 through 569. Do you have that document in front of
 14 you?
 15 A. Yes.

72. PAGE 218:21 TO 219:01 (RUNNING 00:00:14.700)

21 Q. The first page of Exhibit 204 which bears
 22 the Bates number ending in the digits 501 appears
 23 to be an email from Jason Wright to you dated
 24 March 2nd, 2006. Do you see that, sir?
 00219:01 A. Yes.

73. PAGE 221:08 TO 221:13 (RUNNING 00:00:16.167)

08 Q. Let me rephrase that. Was Mr. Wright
 09 involved in any way in Project Trident?
 10 A. Yes.
 11 Q. What was his involvement, sir?
 12 A. He was involved in preparing the
 13 marketing materials for TransUnion.

74. PAGE 223:14 TO 223:17 (RUNNING 00:00:09.900)

14 Q. Do you have any reason to think that you
 15 would not have reviewed this document when you
 16 received it?
 17 A. No.

75. PAGE 224:21 TO 225:09 (RUNNING 00:01:02.133)

21 Q. Let me direct your attention to the page
 22 of this document that bears the Bates numbers
 23 ending in the last three digits 542.
 24 A. Oops, 543, sorry.
 00225:01 Q. Do you have that page?
 02 A. Yes.
 03 Q. Do you see the heading on the top of that
 04 page titled "Scaling"?
 05 A. Yes.
 06 Q. Under that heading immediately above the
 07 bullet point options, the document states, "Several
 08 issues were raised which led to these choices being

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09 made." Do you see that?

76. PAGE 225:14 TO 225:14 (RUNNING 00:00:00.633)

14 A. I see it, yes.

77. PAGE 231:05 TO 231:07 (RUNNING 00:00:09.100)

05 Q. Did you ever tell Mr. Wright that you
06 believed that this document, Exhibit 204, was
07 inaccurate in any way?

78. PAGE 231:10 TO 231:15 (RUNNING 00:00:10.600)

10 THE WITNESS: I don't recall doing so.
11 BY MR. LARUS:
12 Q. Do you recall anyone within TU ever
13 informing Mr. Wright that this document was
14 inaccurate in any way?
15 A. No, I do not.

79. PAGE 232:08 TO 232:15 (RUNNING 00:00:20.233)

08 Q. I appreciate it. The fourth bullet point
09 identifies as one of the issues cannot mimic
10 competitors' scores exactly, correct?
11 A. Yes.
12 Q. Do you recall any consideration of that
13 issue in connection with the decision to adopt a
14 score range for VantageScore?
15 A. Yes.

80. PAGE 233:07 TO 233:09 (RUNNING 00:00:06.467)

07 Q. What was discussed with respect to
08 whether it was permissible to mimic competitor
09 scores exactly?

81. PAGE 233:11 TO 233:19 (RUNNING 00:00:35.300)

11 THE WITNESS: We wanted our own unique
12 score range and so the team was asked to come up
13 with a score range that would be unique and that
14 would help to identify the concept of academic
15 scaling. And to any discussion about what scores
16 might fall into there, I don't know what we
17 covered, but that was the focus that we didn't want
18 it to -- wanted to have its own unique score
19 distribution.

82. PAGE 236:07 TO 236:14 (RUNNING 00:00:21.267)

07 Q. Okay. The next bullet point indicates
08 that among the issues raised was the concept of
09 setting a new standard. Do you see that?
10 A. Yes.
11 Q. And this states, "concept of setting a
12 new standard is valuable, but too many hurdles."
13 Do you see that, sir?
14 A. Yes.

83. PAGE 237:21 TO 237:23 (RUNNING 00:00:07.100)

21 Sitting here today, do you know what the
22 too many hurdles referenced in this document are?
23 A. No.

84. PAGE 238:20 TO 239:07 (RUNNING 00:00:53.466)

20 Q. And what do you recall being discussed
21 about the positive marketing perception that would

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22 result from having a greater range and
 23 differentiation on the high quality end?
 24 A. Again, it would be that consumers could
 00239:01 better identify what their -- how they rate with a
 02 credit score to an academic scale, again referring
 03 to the concept or notion that scores between 990
 04 and 901 or 900 were A quality, and then between 899
 05 and 800 would be like a B. So it would be easier
 06 for consumers to identify with what the score
 07 meant.

85. PAGE 241:04 TO 241:06 (RUNNING 00:00:08.333)

04 Q. You said that Mr. Wright had been
 05 involved in generating marketing materials for the
 06 rollout of VantageScore, correct?

86. PAGE 241:12 TO 241:12 (RUNNING 00:00:00.767)

12 THE WITNESS: Yes.

87. PAGE 242:06 TO 242:08 (RUNNING 00:00:04.800)

06 Q. Did you provide him direction in that
 07 regard?
 08 A. Yes.

88. PAGE 242:12 TO 242:20 (RUNNING 00:00:26.400)

12 Q. Was it your understanding that other
 13 employees of TU who had participated in Project
 14 Trident provided Mr. Wright with information
 15 regarding the development process for VantageScore?
 16 A. Yes.
 17 Q. And was it your understanding then that
 18 he would use that information in educating himself
 19 in order to prepare the marketing materials he was
 20 tasked to prepare?

89. PAGE 242:23 TO 242:23 (RUNNING 00:00:00.867)

23 THE WITNESS: Yes.

90. PAGE 244:06 TO 244:17 (RUNNING 00:00:41.967)

06 Q. Mr. Wiermanski, the court reporter has
 07 handed you a document which has been labeled as
 08 Exhibit 205 which is a multi-page document bearing
 09 the Bates numbers TU-FI 1019485 through 9508. Do
 10 you have that document in front of you?
 11 A. Yes.
 12 Q. Do you recognize this document?
 13 A. Yes.
 14 Q. Would you describe for the record what it
 15 is?
 16 A. It is the marketing plan for
 17 VantageScore.

91. PAGE 247:18 TO 248:07 (RUNNING 00:00:47.000)

18 Q. Now, directing your attention to
 19 Exhibit 205, you indicated that it's your
 20 understanding that this particular document was
 21 created by either Mr. Powers, Mr. Crowe or both, is
 22 that correct?
 23 A. That's correct.
 24 Q. And what leads you to that understanding?
 00248:01 A. As part of the product management
 02 function, they would be responsible for the
 03 ultimate preparation and writing of this document.

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04 Q. Okay. And is it your testimony that you
 05 just don't know one way or another whether
 06 Mr. Wright similarly played some role in the
 07 creation of this document?

92. PAGE 248:09 TO 249:02 (RUNNING 00:00:46.633)

09 THE WITNESS: Mr. Wright contributed,
 10 probably reviewed the document and offered his
 11 suggestions or clarified anything that was
 12 inappropriately or inaccurately mentioned or
 13 listed.

14 BY MR. LARUS:

15 Q. Now, you also indicated that you reviewed
 16 TransUnion's marketing materials relating to the
 17 rollout of VantageScore, correct?

18 A. Yes.

19 Q. Is Exhibit 205 one of the documents that
 20 you reviewed?

21 A. It looks very familiar. I don't know if
 22 this is the exact document, but the content here is
 23 what I would have -- I recall reviewing.

24 Q. Is it your understanding that you would
 00249:01 have reviewed this final version or some prior
 02 draft?

93. PAGE 249:04 TO 249:04 (RUNNING 00:00:01.000)

04 THE WITNESS: Yes.

94. PAGE 269:14 TO 270:08 (RUNNING 00:00:54.333)

14 Q. Mr. Wiermanski, the court reporter has
 15 handed you a document which has been labeled as
 16 Plaintiff's Exhibit 206 which is a two-page
 17 document bearing the Bates numbers TU-FI 0410870 to
 18 71. Do you have that document in front of you?

19 A. Yes.

20 Q. Do you recognize this document?

21 A. Yes.

22 Q. Would you describe for the record what it
 23 is?

24 A. It's a summary of a meeting conducted by
 00270:01 a TransUnion sales associate that was conducted
 02 with the HSBC mortgage team and their reactions to
 03 VantageScore.

04 Q. And when you refer to the HSBC mortgage
 05 team, are you talking about people associated with
 06 TU?

07 A. No, I'm referring to employees of HSB
 08 mortgage -- the mortgage group.

95. PAGE 272:15 TO 272:22 (RUNNING 00:00:22.766)

15 Q. Let me direct your attention to kind of
 16 -- I'll call them the sub bullet points that are
 17 white and indented, states "If we wanted a grading
 18 system, why didn't we choose an entirely different
 19 scale (maybe a two- or four-digit scale that looks
 20 nothing like what lenders use today to grade
 21 paper)?" Do you see that?

22 A. Yes.

96. PAGE 273:03 TO 273:06 (RUNNING 00:00:16.200)

03 Q. Was it your understanding upon reviewing
 04 this document that the text that I read next to
 05 that bullet point was intended to reflect a comment
 06 received from HSBC?

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97. PAGE 273:10 TO 273:10 (RUNNING 00:00:00.767)

10

THE WITNESS: Yes.

TOTAL: 3 CLIPS FROM 3 DEPOSITIONS (RUNNING 00:48:37.132)